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DOCUMENT
ELECTRONICALLY FILED
DATE: 8-1-13
FILED BY: 8-1-13

July 29, 2013

By email:
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CrottyNYSDChambers@nysd.uscourts.gov

The Honorable Paul A. Crotty
United States District Court
Southern District of New York
500 Pearl Street, Chambers 735
New York, New York 10007

Re: Lee v Stacy Makhnevich, et al.
United States District Court, Southern District, 11-CV-08665

Request for Pre-Motion Conference regarding stay application

Dear Judge Crotty:

I represent Physician's Reciprocal Insurers (PRI), which issued a professional liability (malpractice) insurance policy to Defendant Dr. Makhnevich.

On July 24, 2013, PRI commenced an action in the Supreme Court of the State of New York, County of Nassau (Index no: 13-008966) for a judgment declaring, *inter alia*, that PRI is not obligated to indemnify, and has no further obligation to defend, Stacy Makhnevich, DDS, in the action currently pending in this court. Plaintiff Robert Allen Lee is a defendant in the state court action. I provided Mr. Lee's counsel, Paul Alan Levy, Esq., with a copy of the state court complaint.

PRI respectfully seeks a stay of Mr. Lee's federal court action, including the pending motion by the law firm Gerstman Schwartz & Wink, LLP to be relieved as counsel for Dr. Makhnevich, pending resolution of the state court action for a declaratory judgment.

Dr. Makhnevich personally and specifically designated Gerstman Schwartz & Wink, LLP to represent her due to a supposed conflict of interest arising from Mr. Lee's claims, which are

8/1/2013
PRI is a new party to the litigation
pending in this court. A request for a
stay of litigation pending the outcome of non-
related litigation is DENIED
So ordered
Paul M. Mulla
USDC

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U.S. DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
AUG 1 2013

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premised on copyright law and not covered under the dental malpractice policy. Assertions by her hand-picked counsel that she now refuses to participate in the defense of Mr. Lee's federal action raises the possibility of prejudice to PRI if a default judgment is issued against Dr. Makhnevich before an adjudication of PRI's rights is obtained.

The state court complaint does not seek an adjudication of the viability of the claims pursued by Mr. Lee.

Very truly yours,


Gabriel Mignella

cc: Gerstman Schwartz & Wink, LLP
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